

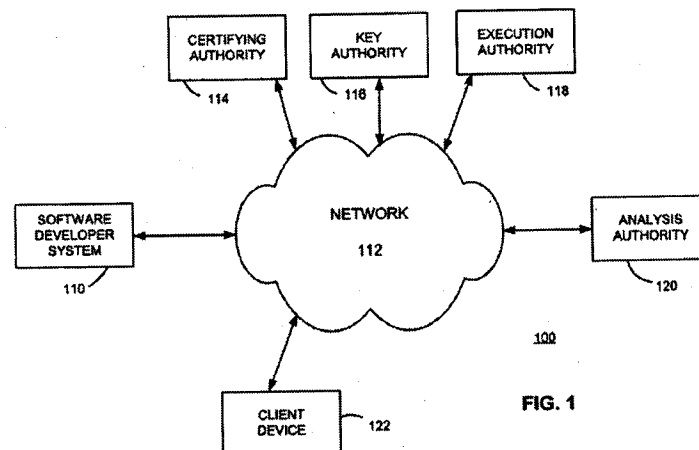
REMARKS

Claims 1, 2, 5, 6, and 9-22 were pending at the time of the last Office Action. Applicant has amended claims 1, 10, and 17. Applicant has neither canceled nor added any claims. Thus, claims 1, 2, 5, 6, and 9-22 are still pending.

The Examiner has rejected claim 1 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Although applicant disagrees, applicant has amended the claim to more closely match the language used in the specification (e.g., the Summary). As the Examiner is no doubt aware, “[i]f a skilled artisan would have understood the inventor to be in possession of the claimed invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, then the adequate description requirement is met.” (MPEP § 2163.II.A.(3)(a).) Moreover, the words added to the claims need not exactly match the words in the specification. (Id.)

The Examiner has rejected under 35 U.S.C. § 102(e) as being anticipated claims 1, 5, 6, 10, 11, 13-15, and 17-22 based on McCorkendale and under 35 U.S.C. § 103(a) claims 2 and 12 based on McCorkendale and Davis and claims 9 and 16 based on McCorkendale and Choate. Applicant respectfully traverses these rejections.

McCorkendale (“McC”) allows a software developer system 110 to obtain a certification for software from a certifying authority 114. When a client attempts to execute the software, the client device 122 verifies the certification via the certifying authority 114 and then sends a request to an execution authority 118 requesting whether the software can be executed. The execution authority 118 may permit or deny execution based on, for example, the number of execution requests that have been received from client devices. Figure 1 of McC is illustrated below.



Applicant will endeavor to point out that the Examiner's position is based on an inconsistent mapping of McM components to the claimed elements. In rejecting claim 1, the Examiner takes the position that McM's "certifying authority" is interpreted as the service provider" of claim 1. (Office Action, Mar. 30, 2010, p. 4.) The Examiner also takes the position that McM's "software" whose installation and execution is controlled by a gatekeeper module 612 of the client device 122 corresponds to the "application" of claim 1. Claim 1 recites "when the application requests a service of the service provider." McM's "software," however, never requests any services of the certifying authority and thus does not meet this limitation of claim 1.

The Examiner notes that McM describes at paragraph 0037 that malicious software could send malicious certification requests to the certifying authority. (Office Action, Mar. 30, 2010, p. 19.) Paragraph 0037 makes it clear that the certifying authority "detects and deletes these sorts of malicious certification requests." Claim 1, in contrast, recites that it is "the processor" of the consumer system that determines "whether the request would exceed the established limit." Since the Examiner takes the position that certifying authority is the claimed "service provider," it is inconsistent to now assert that processing of the certifying authority corresponds to processing that the claim explicitly states is performed by the processor of the consumer system.

Claim 1 also recites that “when it is determined that the request would not exceed the established limit, requesting the service provider to provide the service.” In rejecting claim 1, the Examiner relies on McM at paragraphs 0046-0051 as describing such requesting. The relied-upon paragraphs, however, describe processing performed by the “execution authority” in response to messages received from client devices. (McM, ¶ 0043.) Once again the Examiner is taking a position that is inconsistent with his position that the certifying authority is interpreted as the claimed “service provider.” The processing described in the relied-upon paragraphs is performed by the MCM execution authority and not by MCM’s certifying authority in response to receiving a message from a client device. Thus, the McM describes “requesting the execution authority [rather than the certifying authority] to provide the service.”

Claim 1 also recites “notifying the service provider that the application is misbehaving.” Of course, this notifying is performed by the consumer system of claim 1. The Examiner relies upon paragraphs 0049 and 0051 as describing this notifying. As discussed above, the relied-upon paragraphs describe processing performed by the MCM execution authority, which then notifies McM’s client device. Thus, claim 1 recites that the client device notifies the service provider, but the relied-upon paragraphs describe an execution authority that notifies a client device. Moreover, the relied-upon paragraphs do not describe providing any notification to McM’s certifying authority, which the Examiner interprets as the claimed “service provider.”

The Examiner uses the same correspondence of McM certifying authority to the claimed service provider in rejecting the other independent claims. Thus, the Examiner’s position is also inconsistent for those claims. For example, claim 17 recites that the “service provider” receives “notifications of misbehavior from the service consumers.” McM’s certifying authority does not receive any notifications of misbehavior from client devices. Moreover, McM’s execution authority also does not

receive such notifications of misbehavior from client devices, rather it simply receives request for execution.

Based upon the above amendments and remarks, applicant respectfully requests reconsideration of this application and its early allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-8548.

Please charge any deficiency in fees or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 418268001US from which the undersigned is authorized to draw.

Dated: July 29, 2010

Respectfully submitted,

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